

Remarks

Claim 1 has been canceled and replaced by new claim 21. Claims 2-5 and 13-20 are withdrawn from consideration so that claims 6-12 and 21 are present in the case for consideration by the Examiner.

In the above proffered amendment, the objection to the claims (page 5-6 of the office action) and the claim rejections under 35 U.S.C. section 112 (page 6 of the office action) have been avoided.

A clean copy of the claims as amended is attached.

The Examiner's rejection of claims 1 and 6-12 under 35 U.S.C. section 102(b) as being anticipated by Bohan et al. (U.S. Pat. No. 5,279,539) has been considered and is not believed well taken.

The bone instrumentation shield or casing pouch of the invention is for providing a medically safe physical barrier for implantation between projecting parts of bone instrumentation constructs and surrounding bone and soft tissues. The shield or cover is made of a proven medically safe material such as GoreTex, Dacron, polyurethane (see page 5, lines 17-18). The cover is intended to be permanently installed or may be removed in a subsequent surgical procedure (page 5, last four lines). The shield or casing pouch prevents ingrowth of bone or fibrous tissues into interstices of the instrumentation because it provides a mechanical barrier to such intrusion. (page 5, last paragraph; page 7, lines 25-page 8, line 9 and the abstract).

The claims have been amended to recite that cover or shield is adapted for permanent installation and that its purpose is to serve as a mechanical barrier to the ingrowth of bone or fibrous tissue into interstices of the instrumentation.

The Bohan et al. reference is directed to a medical device for enclosing an internal bodily organ or tissue during surgery. The medical device or pouch and its drawstrings are made of bio-absorbable material which when exposed to moist bodily tissue breaks down into small components which can be readily passed through the system. At column 5, lines 40 et seq. the bio-absorbable pouch and the fabric from which it is preferably constructed are described. All of the claims of the Bohan et al. patent specify that the device as used is bio-absorbable including the fastening thread.

Bohan et al. does not teach or suggest the mechanical barrier cover of the invention.


In view of the foregoing, the rejection of the claims on Bohan et al. (35 U.S.C. 102 (b)) should be withdrawn.

A new declaration and corrected drawings are attached to the instant amendment. The replacement drawings are provided in response to the Examiner's for more formal drawings. The provision of a replacement drawing for Fig. 3, avoids the Examiner's objection by clearly identifying the lower cinch ring 42 and the openings 42a on the cinch ring as recited in the application in paragraph [0022].

In view of the foregoing, it is submitted that the application is in condition for allowance and notification thereof is respectfully requested.

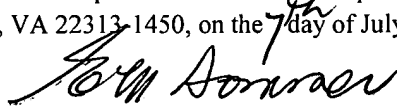
Respectfully Submitted

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Date


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Certificate of Mailing: I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 7th day of July, 2006.

A handwritten signature in black ink, appearing to read "Eric S. Sommer". The signature is written in a cursive, flowing style.